

Bylaw 68-2017 Text Amendments to Land Use Bylaw 6-2015**Report Purpose**

To provide information to Council to make a decision on first, second and third readings of a bylaw that proposes to add a definition for "cannabis production facility" to the Land Use Bylaw, as well as to add "cannabis production facility" to the list of discretionary uses in the IM – Medium Industrial Zoning District. Other definitions will be amended to clarify that they do not include a "cannabis production facility".

Recommendations

1. THAT Bylaw 68-2017, a bylaw that proposes to amend the text of Land Use Bylaw 6-2015 to:
 - a) add a definition for "cannabis production facility";
 - b) add "cannabis production facility" to the list of discretionary uses in the IM – Medium Industrial Zoning District; and
 - c) expand the definitions for "agriculture, general", "agriculture, intensive horticulture", "agriculture, product processing" and "greenhouse" to clarify that they do not include a "cannabis production facility";be given first reading.
2. THAT Bylaw 68-2017 be given second reading.
3. THAT Bylaw 68-2017 be considered for third reading.
4. THAT Bylaw 68-2017 be given third reading.

Council History

December 12, 2017 – Council approved a motion that Administration prepare a bylaw to amend Land Use Bylaw 6-2015 to define cannabis production facilities; and

- add cannabis production facilities to the list of discretionary uses in the IM: Medium Industrial Zoning District; and
- exclude cannabis production facilities from the definitions for "agriculture, general", "agriculture, intensive horticulture", "agriculture, product processing" and "greenhouse"; and
- that the bylaw be advertised for a public hearing to be held on January 23, 2018.

November 7, 2017 - Council adopted Bylaw 63-2017 which amended Land Use Bylaw 6-2015 to add agriculture, intensive horticulture and agriculture, product processing as discretionary uses in the IM – Medium Industrial zoning district.

September 12, 2017 – Council adopted Bylaw 55-2017 which amended Land Use Bylaw 6-2015 to move agriculture, intensive horticulture to a discretionary use in those districts where it was listed as a permitted use.

March 10, 2015 – Council adopted Land Use Bylaw 6-2015, with an effective date of May 11, 2015.

Strategic Plan Priority Areas

Economy: n/a

Governance: The proposed Public Hearing will achieve the strategic goal of increasing public involvement and communicating with the community. The Public Hearing will provide Council with the opportunity to receive public input prior to making a decision on the proposed Bylaw.

Social: n/a

Culture: n/a

Environment: n/a

Other Impacts

Policy: n/a

Legislative/Legal: The *Municipal Government Act* provides that Council may, by bylaw, amend the Land Use Bylaw.

Interdepartmental: Consulted with Assessment and Taxation

Summary

At the December 12, 2017, Council meeting, Council approved a motion related to cannabis production facilities. In accordance with the motion, proposed Bylaw 68-2017 would amend Land Use Bylaw 6-2015 to:

- a) provide a definition for cannabis production facility;
- b) add cannabis production facility to the list of discretionary uses in the IM: Medium Industrial Zoning District; and
- c) exclude cannabis production facility from the definitions for "agriculture, general", "agriculture, intensive horticulture", "agriculture, product processing" and "greenhouse".

The proposed amendments will help to provide clarity and direction on where cannabis production facilities can be located in Strathcona County. Currently, the federal government only allows for production related to medical cannabis. Proposals for these facilities have been considered pursuant to the County's Land Use Bylaw as agriculture, intensive horticulture; and have therefore, until recently, been considered only in agriculture areas of the County.

At the November 7, 2017, Council meeting, agriculture, intensive horticulture was added to the IM: Medium Industrial zoning district of the Land Use Bylaw in the Urban Service Area to give these facilities another option as to where to locate.

Prior to that, at the September 12, 2017, Council meeting, amendments to the Land Use Bylaw resulted in agriculture, intensive horticulture being moved from a permitted use to a discretionary use in districts where it was listed as a permitted use. This change allowed for the Development Officers to use their discretion when making a decision on a development permit application, which allows for the consideration of items such as the scale of development, potential adverse effects and nuisance. A discretionary use also allows for consideration of the opinions of adjacent residents and landowners and allows for them to appeal a decision that they do not agree with.

These previous amendments have been made to improve the process and provide additional options for where to locate a proposed facility; however, there are no specific regulations in the Land Use Bylaw or in federal legislation related to where it is appropriate to locate these facilities in relation to a residence. Given the potential scale of some of these facilities,

concerns have arisen from some adjacent residents when the County is reviewing an application in the agriculture area in proximity to residences.

Given the recent motion and previous support from Council to have these facilities considered in the medium industrial areas of the Urban Service Area, as well as the concerns brought forth from neighbouring residents regarding facilities proposed in the agriculture area, the amendments proposed by Bylaw 68-2017 would add clarity in the Land Use Bylaw to ensure that cannabis production facilities would be, for the time being, only considered in the IM zoning district.

The appropriateness of where these facilities may be considered in the agricultural area will be reviewed by the County when addressing upcoming changes related to the legalization of cannabis for recreational purposes by the federal and provincial governments. Any proposed Land Use Bylaw regulations will be determined through review of proposed federal and provincial regulations and best practices, as well as through public consultation.

There has been some confusion in the past regarding taxation for these types of facilities. To ensure clarity, the County's Assessment and Tax department has been consulted and has advised that the taxation of a Medical Marijuana facility will depend on the setup of each individual site and the following would be considered:

- Property used to grow marijuana is currently considered horticulture under the legislated definition of 'farming operations' and would be tax exempt on farm buildings, to the extent they are used for that purpose; associated farmland is assessed and taxed at 'agricultural use value'.
- Property not used for 'farming operations' is assessed and fully taxed, in accordance with a market value standard. This may include processing areas.

At this point in time, Tax and Assessment is not anticipating any legislative changes to the taxation of Medical Marijuana facilities through the current Municipal Government Act review.

The key point is that regardless of whether the facility is on an industrial zoned parcel of land or on an agricultural zoned parcel of land, the taxation does not change. What has to be considered is the potential loss of industrial taxes when locating these facilities in an industrial district.

In order to better understand the possible tax implications between a facility on an IM (Medium Industrial) property and AG (Agriculture General), Assessment & Tax has provided an example calculation of property taxes generated if a hypothetical 5 acre site, currently zoned IM (Medium Industrial) was to be developed to accommodate a proposed Agriculture, Intensive Horticulture facility.

Based on the assumption that 80% of the buildings would be used for product growing and the remaining 20% would accommodate processing and office area (and the outside would remain strictly parking), property tax assessment and collection on this example would be as follows:

Industrial Use

Assessment
\$9,100,000

Approx. Taxes
\$116,000

Agriculture, Intensive Horticulture Use

\$4,922,000 (Exempt)

\$ 0

\$3,122,000 (Taxable)

\$ 40,000

\$8,044,410 (Total)

\$ 40,000

In short, as indicated above, applying the Provincial Legislation (MGA) with respect to a horticulture use, the County would collect approximately \$76,000 less in annual property taxes for that property if the property was developed as an Agriculture, Intensive Horticulture Use (Medical Marijuana) rather than a typical industrial development.

Communication Plan

Newspaper Ads for public hearing

Enclosures

- 1 Bylaw 68-2017
- 2 Strikethrough and shaded sections of the Definitions Section and the IM: Medium Industrial Zoning District